

Application No. 10/689,397
Amendment Dated 9/6/05
Reply to Office Action of 6/3/05

REMARKS

This Amendment is submitted in response to the Office Action mailed on June 3, 2005. Claims 26-28 have been amended, and claim 30 stands withdrawn from consideration. Claims 26-29 remain in the present application. In view of the foregoing amendments, as well as the following remarks, Applicant respectfully submits that this application is in complete condition for allowance and request reconsideration of the application in this regard.

Applicant has amended independent claim 26 to recite that for a cold start batch, heat is applied to the kettle according to a first temperature control algorithm to pop the popping corn of the cold start batch within the kettle. Independent claim 26 has further been amended to recite that for a subsequent batch, heat is applied to the kettle according to a second temperature control algorithm to pop the popping corn of the subsequent batch within the kettle. Support for this amendment is located at Page 76, line 17 through Page 87, line 10, for example, and in Fig. 16.

For example, in one embodiment of the present invention, a temperature controller uses a PID or "proportional integral derivative" scheme to operate and control the kettle heater. In this embodiment, the PID features of the temperature controller are overridden for at least the first cooking cycle so that the kettle temperature ramps up toward a Tcontrol temperature which may be essentially a high limit temperature. During a subsequent cooking cycle, the PID features of the temperature controller take over and the system is then under control of the PID feature so that the kettle heater

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will be controlled to deliver heat to the kettle to keep an empty kettle around a desired Tload/Tdump set point. The Tcontrol temperature during the cold batch start may be higher than the Tload/Tdump temperature of subsequent batches as shown in Fig. 16. Accordingly, for a cold batch start, the kettle is heated according to a first temperature control algorithm (i.e., without use of PID features). For subsequent batches, the kettle is heated according to a second temperature control algorithm (i.e., with use of PID features).

In view of the amendment to independent claim 26, Applicant respectfully traverses the rejections of 26-29 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,543,103 and claims 1-6 of U.S. Patent No. 6,352,731 and respectfully requests that the rejections be withdrawn.

Applicant respectfully submits that the amendment to independent claim 26 also overcomes the rejection under 35 U.S.C. §112, second paragraph, for indefiniteness, and the rejection should be withdrawn.

Applicant respectfully submits that VandeWalker fails to teach or suggest the combination of method steps recited in independent claim 26 and the rejection should be withdrawn. In particular, VandeWalker is directed to a popcorn popping machine that uses a heater to heat the kettle to a popping temperature (e.g. 390°-410°F) set through manipulation of a variable resistor (see Col. 5, line 61 through Col. 6, line 13). Upon reaching that temperature, a sensor and triac control the flow of

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current through the heater to maintain the set popping temperature (see Col. 6, lines 31-35).

Applicant respectfully submits that the prior art of record fails to teach or suggest heating of a kettle according to a first temperature control algorithm for a cold start batch and according to a second temperature control algorithm for a subsequent batch as recited in independent claim 26 and allowance of independent claim 26 is respectfully requested.

Moreover, as claims 27-29 depend from allowable independent claim 26, and further as each of these claims recites a combination of steps not taught or suggested by the prior art of record, Applicant submits that these claims are allowable as well.

Conclusion


In view of the foregoing response including the amendments and remarks, this application is submitted to be in complete condition for allowance and early notice to this affect is earnestly solicited. If there is any issue that remains which may be resolved by telephone conference, the Examiner is invited to contact the undersigned in order to resolve the same and expedite the allowance of this application.

Upon acceptance of the disclaimer, please charge Deposit Account No. 23-3000 in the amount of \$110.00 for the disclaimer fee. If any additional fee is required to complete this communication, please charge Deposit Account No. 23-3000.

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Respectfully submitted,

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